

Deafness In Halacha: A Reappraisal

By: Rabbi Moshe Taub

Originally published in RJJ Journal of Halacha (Sukkos 7773/Fall 2012, No. LXIV)

For thousands of years, people born without the ability to hear were often erroneously consigned to mental institutions. It was not until a few hundred years ago that sign language and other techniques were developed to communicate with such people and even teach them how to speak so that they could make themselves understood.

The Gemara (*Chagiga* 3a; *Yevamot* 113a) rules that a *cheresh* –which here, and almost everywhere else in the Talmud, refers to one who can neither hear nor speak (*Chagiga* 2b) – is exempt from all mitzvot.¹

This dichotomy, between the unchanging halachot relating to *cherashim* and the advancing pedagogic skills of specialists in the fields of oralism (spoken language) and manualism (sign language) has, over the past few decades, been exponentially magnified by the tremendous technological advances in modern-day hearing aids and cochlear implants.

Consequently, many *poskim* (major halachic decisors) have addressed the question of whether and to what extent the status of deaf persons who now exhibit understanding and can communicate with others should be modified from the way they were categorized in the days of the Gemara.²

The goal of this article is to present the many views found in the *poskim* concerning deafness in the modern age.³

themselves aotmishnaic sager (purifications) Jerusalemthat
aotmishnaic sager (purifications) Jerusalemthat
monograph also^{12-page}mid

Deafness – General Halachot

About one in one thousand children are born deaf.⁴ Infants and adults can also develop deafness due to illness (e.g. meningitis). There is no halachic distinction between conductive deafness (where the inner ear works, yet, for a host of possible reasons, the sound is not able to travel through the ear canal) and sensorineural hearing loss (where the inner ear, the cochlea, is unable to perform its function of discerning sounds by sending messaging to the brain).

While the scriptural source for the ruling that a *cheresh* is exempt from all mitzvot is unclear, the Chatam Sofer on *Even HaEzer* 2:2 posits that it is a *Halacha l'Moshe*

⁴ It is estimated that genetics plays a role in about 30%-50% of childhood deaf cases, and it can be determined if one's deafness is due to a genetic marker or not ("Understanding the Genetics of Deafness" by *Harvard Medical School of Hereditary Deafness*). I contacted Dr. Rehm, the author of this review, and she further explained that there is still much being discovered regarding the role that genetics plays in deafness. *Chazal* allude to the role genetics can play in causing deafness in *Chagiga 3a*: "Two mutes living in Rebbe's area who were either the grandchildren or nephews of Rabbi Yochanan Ben Gudgada would make sure to sit in front of Rebbe when he would enter the study-hall to lecture...". This is the same Rabbi Yochanan Ben Gugada mentioned above (*Tosephta Terumot*, 1) whose sons were deaf, suggesting either remarkable coincidence or an allusion to genetics playing a role by deafness and muteness. Even more, it would seem that his nephews' muteness was likely related to severe cases of hardness-of-hearing as the Gemara itself seems to indicate when it informs us that his nephews would make sure to sit in front of Rebbe when he would teach, which, if they were simply mute, would not be an understandable action, and certainly would not warrant being a detail mentioned in the Gemara (cf. *Ein Yaakov* and *B'Einei Yitzchak* ad loc. and *Maharsha* to *Eruvin* 13a who offer different solutions to this problem). Indeed, many commentators wonder (e.g. *Iyun Yaakov*, see Schottensntein Talmud ad loc. footnote 7) why the lineage of these two mutes had to have been mentioned at all, as it seems to add nothing to the events and the lesson to be derived from it. However, it can be suggested that the *gemera* went out of its way to mention their pedigree to allude to this issue of genetics and deafness. See also *Yevamot* 64b regarding Hemophilia and genetics. See as well the article, 'Judaism, Genetic Screening and Genetic Therapy', by Dr. Fred Rosner.

M'Sinai (a fiat, something taught to Moshe Rabbenu at Mount Sinai, which is accepted without scriptural source). See *Minchat Shlomo* 1:34 who also discusses what possible source *chazal* (the early rabbis, usually reserved for rabbis from the time of the Talmud) had for this law,⁵ and where he also seeks to explain how this halacha (that a deaf-mute is exempt from mitzvot) might today go through a radical change -- if *chazal* had been aware of our ability to train a deaf-mute so that they could understand things the way other people do.

According to some, this status of a *cheresh* as exempt from mitzvah observance applies equally to one born deaf (congenital) as well as one who developed deafness and muteness later in life (*Maaseh Cheresh*); others disagree,⁶ and are therefore more lenient regarding one who was at one time able to hear or speak.⁷

From the straightforward reading of the Gemara (*Chagiga* ad loc. *Yevamot* 113-114; *Shavuot* 42a) one can infer that this exemptive status of the archetypal deaf-mute is causative in nature and not intrinsic.⁸ What this means is that it is precisely *due* to deafness and lack of communicational aptitude that a deaf person's development becomes arrested, which *then* leads to a deficiency in the rational agility and mental maturity that would be necessary to bind one to the Torah's many obligations (even its negative laws; see *Yevamot* 114b). Rabbi Moshe Feinstein further explains communication as being the key to intellectual growth and development, and a deaf-mute

, and - - See Maharam to Shabbos 132a s.v. *v'R. Yochanan* regarding not finidng a *machloket* regarding a Halacha Moshe M'Sinai.

⁶ *Pri Megadim*, *kolleles* 2:4-7; *shu't Mimamakim* 3:2; *Sdei Chemed* #103.

⁷ See also *Nishmat Avraham*, Artscroll, volume 1 pages 27, 28 with footnotes. See *Sdei Chemed*, *mereches 'Ches' klal* 103.

⁸ See Rashi *ibid.* s.v. '*cheresh*', that such a *cheresh* is not a *baar-daas*; see *Igros Moshe eh'e* 3:33.

who, perforce, cannot communicate, has to be viewed as unique within the confines of halacha proper.⁹

Thus, this that a *cheresh* refers to one who is both deaf and mute is not due to two unrelated conditions (deafness and muteness) having coincidentally struck the same individual, rather that it is precisely because one is (born) deaf that he would never learn how to speak or communicate.¹⁰

In fact the biblical term for *deafness* - the root *CH'R'SH* - is often used to connote *silence* as well (e.g. *Shmot* 14:14, inter alia). The Radak (*Sefer HaShrashim*, column 239) explains that this word's true meaning is indeed 'deaf(ness)', and it is used sometimes to mean 'silence' merely to allude to the fact that one who is silent is *acting* as a deaf person would since, typically, they are fated to silence. (ADDED SEPTEMBER 4 2014: See also Rambam Peirus Hamishnaoyos Terumos 1:2; See also Turie Even and Haghoas Rav Moshe hurvitz to Chagiga 2b [found in Leket Haoros Shas Lublin] who understand that in the main the central concern is the deafness, and certainly if one cant also talk)

Based on the above rationale it is easily understood why one who is a *medaber* (can speak but is deaf) or a *shomea* (hears but can't speak) is obligated in all mitzvot (*Shulchan Aruch* 55:8).

Having only the skill of writing, however, would not transform one who is a deaf-mute into a *medaber* (*Tur Even Haezer, siman* 120:5, 121:6; see *Gittin* 71a with *Rashash*).¹¹ This is certainly true regarding one who was born deaf.¹²

⁹ Op cit.

¹¹ As quoted by Dr. Steinberg in *Encyclopedia Refuit* vol.2, footnote [58].

¹¹ As quoted by Dr. Steinberg in *Encyclopedia Refuit* vol.2, footnote [58].

¹² Based on *Gittin* 71a. See *Encyclopidia Talmudis, erach* Cheresh, column 496 and footnotes 30-37.

It is critical to point out that a Jewish *cheresh* –which rarely, if at all, exists today in the classic deaf-mute form- is still an equal member of the Jewish nation- e.g. one desecrates Shabbat to save them,¹³ and the Torah warns us to not curse them.¹⁴ Other such examples include the ruling by some that a *kohen* (priest) who is a true *cheresh* is still entitled to the special honors due to *kohanim*,¹⁵ and the view that we do not stop a *cheresh* from donning *teffilin*.¹⁶

Furthermore, one fulfils the *mitzvah* of procreation through a deaf child.¹⁷

One modern expert on issues of medical halacha argues that the above laws notwithstanding, one cannot feed a true *cheresh* non-kosher food or assist him in performing other sins.¹⁸

¹³ *Minchas Chinuch*, 39.

¹⁴ *Vayikra* 19:14.

¹⁵ *Minchas Chinuch* 269:3.

¹⁶ *Mishneh Berrura*, *siman* 37:12. See also *shu't Tzitz Eliezer*, 15:32:2. Cf. *Magen Avraham*, *siman* 282:6 and *Hagoas Rav Akiva Eiger* ad locum.

¹⁷ *Rama*, *eh'e* 1:6. In fact, One of the purposes of this monograph is to allow modern-day *cherashim* to no longer be viewed (by some) - as one deaf person put it to me - like “specimens”, and instead as common members of the *klal* who happen to have, at times, unique *halachos* applied to them, just like we find by an *onnein* or a doctor.

,op.cit. afthe laws of Shabbat -an academic, not literal comparison to *cherashim*top cit.op cit.op cit.

Shomea, Medaber, and Pikcheut

As stated, a mute who is not deaf (*shomea*), or one who is deaf but can speak (*medaber*), is halachically viewed as a *pikeach* (a person of common intelligence, capable), and would therefore be obligated in all mitzvot (except possibly mitzvot that are dependent on *shmia* (listening), e.g. *megilla*).

Communication being the reason for a *cheresh*'s unique status in halacha, one can make the cogent argument that in modern times when even the most severely deaf-mute is taught some form of communication, their status might well be changed to that of a *medaber* and they could then be viewed as no different from that of the average Jew in that he would be obligated in virtually all mitzvot.¹⁹ This would seem to be true whether or not their hearing devices give them perfect hearing, and even if they do not have perfect speech. The same may be argued even concerning a *cheresh* who can communicate using only sign language. If true, many supplemental questions would arise, e.g. their being counted for a *minyan*, and regarding hearing devices themselves and if they are viewed as affecting true halachic hearing (*shmia*) for mitzvot.

The major *poskim* of the late 20th century all discuss this issue: Rabbi Moshe Feinstein (*Even Haezer* 3:33, etc.); Rabbi Shlomo Zalman Auerbach (*Minchat Shlomo* 1:34, etc.); Rabbi Eliezer Waldenberg (*shu't Tzitz Eliezer*, 15:46, etc.); Rabbi Yitzchak Yaakov Weiss (*Minchat Yitzchak* 2:113, etc.). We shall first marshal their views and later seek to apply them to common cases.

Hearing Aids vs. Cochlear Implants

¹⁹ Lord Jakobowitz writing in his groundbreaking 'Jewish Medical Ethics' (page 336, footnote 180), states "The legal disabilities of the deaf and dumb are entirely due to the mental dementia resulting from their inability to communicate audibly with their environment. But in view of the modern advancement in the treatment of such cases, it has been suggested that their religious and legal status may now be modified..."

Before discussing the views of the *poskim*, it is important to clarify that the term “hearing aid” that will be referenced when discussing the various responsa literature is simply a reflection of the terminology used by the *poskim*. Cochlear Implants (referred to in this article as CI), which are a fairly new invention, would probably be no different, from a halachic standpoint, than standard hearing aids.

Some do argue that CI should be viewed as halachically more lenient than a standard hearing aid in two areas: 1) Shabbat - because a standard hearing aid is similar to a microphone (it is, in essence, a mini microphone) the same Shabbat concerns should apply to both. It has therefore been argued that at least concerning the Shabbat issue of *hashma'at kol* (lit. producing sounds)²⁰ which is one of the concerns regarding microphones on Shabbat, CI should not be affected, for CI works through sending audible pulses to the brain and not through amplified sounds. 2) Fulfilling a mitzvah dependent on hearing (e.g. *megilla*) - there is much debate whether such mitzvot can be fulfilled through a microphone (and hearing aids) (see next section), and here too some argue that CI “...may...” be a non-issue due, again, to the fact that CI is not a microphone.²¹

It would seem, however, that both of these points may be moot, based on faulty assumptions. As for the point made regarding *hashma'at kol*, Rabbi Moshe Feinstein (*Iggerot Moshe Orach Chaim* 2:85, s.v. *vhenay hataam*) has already ruled that this is of no concern even for hearing aids because, although essentially a microphone, the sound

is a rabbinical relating to performing an act on Shabbat whose result produces sound in a permissible way or method (i.e. a radio set on a timer to go on/off) when that act would typically be achieved—when performed on non Shabbat or festival days - in a manner that would be forbidden on Shabbat due to the fear that some may come to believe that a violation was performed and *Orach Chaim siman* 252.xxxxxxxx; See also *Techumin* 5764, Dr. Brema.

xxxxxxx; See also *Techumin* 5764, Dr. Brema.

produced by a hearing aid is not meant for nor can it be heard by others (the *rabim*).²² Furthermore, regarding both points 1 and 2, which seek to distinguish between hearing aids and CI because the latter works without a microphone -- this is a non-starter due to the fact that **CI does work through a microphone!** While it is true that hearing aids simply amplify sounds so as to be audible to a damaged ear, CI also *begins* its process with a microphone. It is only after the sound is first picked up by a microphone that the speech processor organizes the sounds, the transmitter and stimulator transforms these sounds to impulses, and finally the electric array gathers these and sends them to the various areas of the auditory nerve.²³

²² An additional factor to consider is that our acceptance of this rabbinic decree of *hashma'at kol* is debated and is not codified as an absolute. Indeed the Rema in *siman* 252:5 only brings this decree as a “*yeish omrim*” (some say) and states, “such is the custom (to be stringent)”. Furthermore in *siman* 244:6 the Rema rules that in cases of great need or financial loss we follow the lenient view. This would all the more so seem to be the case regarding one who needs to rely on this view so that he could hear! See footnote 52 regarding how the Rema chose when to rule leniently when there are a number of views. Cf. *Gra siman* 252 who is more stringent regarding this debated decree. See *Biur Halacha* s.v. ‘*v'hachi noheg*’.

²³ See Tradition, Spring 2009, “Survey of Recent Halachik Literature”, by Rabbi Bleich where he briefly discusses the question of a halachic distinction between CI and standard hearing aids. He quotes, and then disagrees with, the view of Dr. Israel Brema (op. cit.) who argues that because CI works without a microphone it should be more effective halachically. Rabbi Bleich in his dissent does not mention that *in fact CI does begin its process with amplified sound*. Indeed Rabbi Bleich writes, “*The crucial Halachik difference between a hearing aid and a cochlear implant is that the latter does not transform electrical current into amplified sound waves*”. It is my contention that both he is and Dr. Brema are factually incorrect. I sent my language used above (“*CI also begins its process with a microphone. It is only after the sound is first picked up by a microphone that the speech processor organizes the sounds, the transmitter and stimulator transforms these sounds to impulses, and finally the electric array gathers these and sends them to the various areas of the auditory nerve*”) to Dr. Ross of the University of Connecticut, an eminent expert in this field, who replied: “*You are quite correct; a CI and a HA both require microphones in order to begin the electronic processing. Your wording is absolutely accurate. Both, also, eventually engage the auditory nerve (albeit differently) to transmit electronic nerve impulses to and through the brain*”. Rabbi Kakon of Yeshivas Nefesh Dovid later informed me of the importance of the arguments laid out above and in this footnote because, as he explained it, many *rabbonim* advise to acquire a cochlear implant and not a

If anything, one could argue that CI should be viewed as a *greater* halachic concern than hearing aids regarding mitzvot that rely on hearing, for while both begin as microphones (that convert sound into electric signals, see *Minchat Shlomo* 1:9)²⁴ only CI reverse engineers these signals and then rearranges them, which means that a CI takes sound one step further away from the original speaker when compared to a standard hearing aid!

Nevertheless, based on the leniency of Rabbi Tzvi Pesach Frank (see next section) that “*all sounds are kosher*”, and Rabbi Feinstein’s argument (see next section) that even natural sound waves are manipulated before reaching one’s ears, it would seem that *all hearing devices may be treated equally*, and that once one is hearing only a shadow of the first sound, it is irrelevant how many steps removed it is. Further halachic clarification is required regarding this last point.

With the above in mind, let us look to some of the responsa literature that discuss modern day deafness, both in generalities and specific cases. We will further seek to apply them to common cases in the section that follows it.

Iggerot Moshe

Rabbi Moshe Feinstein²⁵ rules that someone who was born a *cheresh* (deaf-mute) but later had a hearing aid attached which permits him to hear and which allows him to communicate with others, would have the status of a *pikeach* (of common intelligence) and be obligated in mitzvot like any other Jew.

hearing aid based on the premise that it poses fewer *halachik* concerns, which, as argued here, might be factually untrue.

²⁴ It should be noted that, today, there are several different types of microphones, some of which, like fiber optic microphones, compare little to the classic devices. Research needs to be done to see if Rabbi Shlomo Zalman Auerbach’s analysis is true by these as well.

²⁵ *Eh'e*, 3:33; written in 1971, a fact that will become important in a forthcoming paragraph.

What makes this particular responsum so fascinating is that although he advances such a pragmatic halachic view when discussing modern-day *cherashim*, he nevertheless goes on to explain that one's ability to hear through an electrical device does not transform one into a *shomea* (one who can hear), but rather transforms him into a *medaber* (one who can speak)! Rabbi Feinstein draws a distinction between electronic hearing aids and the mechanical, crude hearing aid that the *Pri Chodesh*²⁶ ruled would transform a *cheresh* into a *shomea*, for the latter still allowed one to hear the original voice or sound.

It would appear then that Rabbi Feinstein is suggesting a somewhat complicated halachic structure: modern electrical devices allows one to 'hear' - although not "halachic hearing" – through which a *cheresh* would learn how to converse with others, and it is the lack of being able to converse with others which is at the heart of a *cheresh*'s halachic disability – which, once removed, would make him a *medaber*. This ruling applies even if one's speech can be difficult, but not impossible, to understand.²⁷ Such an individual would be viewed as no different than the average Jew.²⁸

This ruling of Rabbi Feinstein, where he states that electrically amplified sounds are not viewed as *shmia* (hearing), would seem to contradict an earlier responsum of his where he was asked regarding hearing the *megilla*, or another obligation dependent on hearing, through a microphone.²⁹ There he argues that since even regarding regular

²⁶ *Eh'e*, 121.

²⁷ Ad loc_{um}, in the beginning of the responsum where Rabbi Feinstein describes the case that was posed to him.

²⁸ Rabbi Feinstein however does rule, in accordance with Rambam (*hilchos mechira* 29:22), that although viewed as a *medaber* and obligated in mitzvos, he does not have the ability to sell land.

²⁹ *Igros Moshe oh'c* 2:108. See also *Igros Moshe* 4:91:4 where he permits listening to *havdala* over a telephone in cases of need.

speech the vibrating waves/air that enter the listener's ear is in fact different and unique than the vibrating waves/air that were used when the words were first spoken, the sound modified through a microphone should be viewed as no different halachically than natural sound waves themselves, and one can, then, fulfill such mitzvot through it. He ends there by stating that while one should not protest those who follow this ruling, he is reluctant to have this leniency acted upon.

It seems puzzling, however, that in the *teshuva* mentioned earlier, which apparently was written years later,³⁰ he maintains an opposite approach, arguing strongly against a hearing aid being seen as halachic *shmia* with not even a hint of an allowance or mention of his previous lenient approach comparing such audibility to sound waves.

Furthermore, in 1980, Rabbi Feinstein was again asked about hearing the *megilla* through a microphone and he then reiterated his inclination to be lenient –although he was slightly more hesitant –and warned that it nevertheless should be avoided, even *b'sha'at hadchak* (cases of need).³¹ He makes no reference to his earlier responsum regarding hearing aids where he completely rejected such manipulated sounds as true *shmia* on pure halachic grounds.

While it is tempting to solve this apparent discrepancy in Rabbi Feinstein's views by suggesting some dissimilarity between a microphone and hearing aids, such a distinction is untenable, especially when we consider that virtually all scholars who discuss hearing aids connect it to their or others' view(s) regarding a microphone.³² In fact Rabbi Feinstein himself draws such a comparison!³³

³¹ *Igros Moshe oh'c* 4:126.

³¹ *Igros Moshe oh'c* 4:126.

³² E.g. *Teshuvos Venhagos* 1:101; *Minchas Shlomo* 1:9 brought below.

³³ *Igros Moshe* 2:85 where after forbidding the use of microphones on Shabbat, was asked about hearing aids *which he admits are the same thing* –although he allows the latter for reasons that are specific to Shabbat law. See however Rabbi Elyshah Sandler's article in JHCS, Spring 2001 "The Use of Hearing Aids on Shabbat", where after Rabbi Sandler writes that there is no distinction between the mechanics of a

When assessing Rabbi Feinstein's view on the issue of microphones/hearing aids and mitzvot that require hearing (*shmia*), some scholars look only to his microphone *teshuvot* and therefore quote him as being lenient.³⁴ Others quote only the hearing aid *teshuva* and therefore cite him as being stringent in this matter.³⁵

Even the *sefer 'Shmaitza D'Moshe'*, which seeks to gather all of Rabbi Feinstein's rulings as a flowing commentary to the *Shulchan Aruch*, states in his name: "One should not hear the *megilla* through a microphone, even in a *sha'at hadchak*..." In their commentary they seem to only focus on the latter two *teshovot* mentioned in this article (nevertheless, they accurately quote him as forbidding it under any circumstances).³⁶

Minchat Shlomo

Rabbi Shlomo Zalman Auerbach (*Minchat Shlomo* 1:34), writing to Rabbi Chaim Pinchas Sheinberg *z'l*, recalls a case where both he and Rabbi Elyashiv were asked

microphone and hearing aids (save, as alluded to above - and discussed in detail in Rabbi Sandler's article - relating to *shabbos*), he mentions in a footnote (#52) the *Nishmat Shabbos* 3:360, where the *Satmer Rebbe* is quoted as indeed making a distinction between the two by suggesting that the *poskim* who forbade microphones on *shabbos* was a response, primarily, to the reform movement, therefore hearing aids would not be a concern. However, this would help little to answer the discrepancy in Rabbi Feinstein's responna 1) because, as pointed out in the beginning of this footnote, Rabbi Feinstein himself draws a parallel between hearing aids and microphones 2) the *Satmer Rebbe's* theory would only be viable should we find one ruling *less* stringently by hearing aids, not more, which is what Rabbi Feinstein seems to do regarding fulfilling general *mitzvos* through them.

³⁴ See Rav Howard Shachter's highly lucid 'Grey Matter' and the chapter titled "Fulfilling Mitzvot Through Hearing Devices"; Rabbis Tandler and Rosner in The Journal Of Contemporary Halacha Fall 1991, "The Physically and Mentally Disabled", footnote 17.

³⁵ See *Encyclopedia Refoit* op cit footnote [386] where the *Teshuva* regarding hearing aids (*eh'e* 3:33) is quoted as proof that Rabbi Feinstein would not accept them as vehicle through which to hear the *megilla* and that, like Rabbi Aurbach (see below) he does not perceive hearing devices as affecting *Halachik shmia*.

³⁶ *Siman* 689:2.

regarding a deaf boy who was trained to talk (limitedly) and even had a *chavruta* (a learning partner). They both ruled that this boy had the status of a *pikeach* and was therefore obligated in mitzvot with the possible exception of being called up to the Torah, because of the fear that some will not understand his blessings (this last point will be explored further in a later section). This seems to be in contrast to the view of the *Iggerot Moshe* (3:33 s.v. ‘*v’hanochon*’) who only speaks of a *medaber* who also has a functioning hearing aid or once had modest hearing. However, Rabbi Auerbach clearly rules that even one with no hearing can be viewed as a *pikeach*, seemingly without having to be categorized as either a *shomea* or a *medaber*. Rabbi Auerbach ends with some discomfort toward disagreeing with earlier *poskim*³⁷ who had ruled that a *cheresh* who learns to talk is still considered a true *cheresh* and is simply viewed as if repeating words blindly. We all clearly see, Rabbi Auerbach asserts, that today this no longer holds true.

In a separate *teshuva* (1:9) Rabbi Auerbach discusses the issue of hearing mitzvot requiring hearing through a microphone. He rules that one does not fulfill his obligation in such a manner. He then writes in parentheses: “In pains me that now deaf people, who can only hear by using a microphone-like device, would not be able to fulfill mitzvat *shofar, megilla*...at the very least they should not make a blessing on these mitzvot.”

Tzitz Eliezer

The *Tzitz Eliezer* (15:46:5) also rules that deaf people today, who go to special schools or can converse with others, have the status of *pikchim* and are obligated in all mitzvot. He also suggests that there is no difference between one who can only hear when spoken to in a loud voice and one who can only hear through a hearing device; both of whom, he rules, would be obligated in all mitzvot.³⁸ He therefore rules unlike Rabbi Auerbach and views such hearing as “halachic hearing”.

³⁷ E.g. *Maharam Shik, Divrei Malkiel*

³⁸ *Ibid* s.v. “*uk’sh’mdabrim*”.

However, at the same time, in three other responsa he argues against the possibility of fulfilling a mitzvah through a microphone, because a) he views such devices as not producing the original sound,³⁹ b) it takes away from the reverence we are to have in the synagogue and for *davening* (praying).⁴⁰ He therefore, in the latter *teshuvot* mentioned, approaches the issue of fulfilling mitzvot dependent on *shmia* through a hearing aid similar to the *Minchat Shlomo* and the more stringent *teshuva* from the *Iggerot Moshe*.⁴¹

Rav Frank and Chazon Ish

Relating specifically to the issue of hearing devices, Rabbi Tzvi Pesach Frank, writing to Rabbi Yitzchak Yaakov Weiss rules differently.⁴² He argues that with the exception of the mitzvah of *shofar* where the Gemara explicitly rules that one must hear the sound itself and not its echo (or a reverberation), a microphone is in fact viewed as halachic hearing.⁴³ The Chazon Ish also suggested a similar permissive approach verbally to Rabbi Shlomo Zalman Auerbach (*Minchat Shlomo* 1:9).⁴⁴ As we will see in the next section, this debate between Rabbi Shlomo Zalman Auerbach and Rabbi Frank (and

³⁹ Ibid. 4:26:2:8, he even goes so far as to compare it to listening to it through a “gramophone”(!) also *ibid* ,

⁴⁰ Ibid. 4:26; 5:3. This concern would seem to apply little to hearing devices.

⁴¹ *Op cit* *Eh'e* 3:33. Like with Rabbi Feinstein's *teshuvo*s, it is possible to solve this contradiction between *Tzitz Eliezer's* permissive *teshuvot* and stringent ones if we can come up with some distinction between hearings aids and microphones. See above, footnote 42.

⁴² by stating See Rabbi Frank's *Mikroei Kodesh, purim #27* and Rabbi Weiss's *shu't Minchas Yitzchak* ad loc.

⁴³ Rosh Hashana 27b, *st that be heardt*

⁴⁴ He basis this on the logic that the sound being heard was first generated by the original speaker.

possibly Rabbi Feinstein) colors how one approaches a slew of issues in practical halacha.

From the above we see that while disagreeing on the particulars, these *poskim* nevertheless have a clear consensus that obligates virtually all of today's *cherashim* in mitzvot, and which rules that their status has (in most cases) changed from their earlier status of being absolved from all mitzvah observance.⁴⁵ There is, however, some disagreement regarding the peripherals, the application of which will be discussed later below.

All of the above creates a unique category of halachic status, for although such classifications as *medaber* and *shomea* were discussed in the Gemara, and at times in the *Shulchan Aruch* (e.g. *siman* 199:10 with *Mishnah Berurah* 28), the plausibility of people who were deaf yet could talk or visa versa was at one time too rare to be commonly discussed in the codes.⁴⁶

What follows is an attempt to gather the most common halachic questions relating to deaf or hard-of-hearing *pikchim* today. Due to the breadth of this topic we will focus on the *Orach Chaim* section of the *Shulchan Aruch* as it relates to a *medaber* with and without a hearing device. Beyond this, some of the other questions that relate to hearing aids (e.g. Shabbat use) and sign language will be briefly touched upon.

Practical Applications

⁴⁵ See also *shu't Divrei Chaim eh'e* 72 and 73, where the *Sanzer rav* also views modern-day *cherashim* as *pikchim*.

⁴⁶ Specifically regarding one who was born deaf. When the Gemara discusses one who is deaf yet who could talk Rashi often makes the point that this is due to his becoming deaf later in life, e.g. *Rashi, Chagiga* 2b.

Tekiat Shofar – Even according to the lenient opinions cited above that view assisted hearing through a hearing aid or CI as halachic hearing, *tekiat shofar* (*shofar* blasts) would be different. The Gemara (*Rosh Hashana* 27b) has already ruled that an echoed sound is not enough to fulfill this mitzvah, as one must hear the original blast. Nevertheless, a deaf person who hears with such a device should still blow *shofar* for himself. Should they have even faint hearing without the assistance of a hearing aid, then they should take the hearing aid out before the blasts.⁴⁷ In any case, such a person may certainly not blow *shofar* for others.

However Rabbi Shternbach marshals the early view of Rabbi Yonatan M'Lunel (b. Provence 1135) who rules⁴⁸ that a *cheresh* who can talk is obligated in *shofar*.⁴⁹ Rabbi Shternbach therefore suggests that someone who could talk but cannot hear (or one with a hearing device, which according to most is viewed as deaf when it comes to this mitzvah) should learn to blow *shofar* for themselves,⁵⁰ and do so without making the blessing. This also seems to be the ruling of the *Aruch HaShulchan*.⁵¹

⁴⁷ See *Mishne Berura*, *siman* 589:13 that one can fulfill this mitzvah through a *mechanical* hearing aid. See also the always extraordinary *Piskei Teshuvos* 489:3.

This ruling is found in⁴⁹ *Moadim L'Zmanim* 1:1.

⁴⁹ *Moadim L'Zmanim* 1:1.

⁵⁰ An exact opposite approach is found in the *Beis Yoseph siman* 689 in the name of the *Rashbatz* who argues that regarding *shofar*, since the *mitzvah* is in the *shmia* and not the act of sounding it one that cannot hear is not even a *bar-chayuva* individual. This approach to a *medaber* differs from the *Har Tzvi's* for Although both rule that a *medaber* cannot fulfill this particular *mitzvah*, there is no reason according to the *Har Tzvi* not to still view the *medaber* (with a hearing device) as a *bar-chayuva*, which may allow him to be *motzi* others., see *Avnei Nezer oh'c* 439 and *Kovetz HaOros* 48:14 if an *onness* can still be viewed as *bar-chayuva* in order to be *motzi* others. See the always breathtaking (and breadthteaking!) *Chavtzalus HaShurim, Shmos*, page 93-95; *Shalmei Toda, Purim* page 164b - whereas according to the *Rashbatz* there is no room for such an allowance.

Berachot, Kriat Shma, Tephilla, Kriat HaTorah – The *Shulchan Aruch* rules (62:3; 206:6) that although prayers and blessings must be heard by the reciter, *bdiaved* (ex post facto), if one says the words but did not say them loudly enough so as to hear them one still fulfills his obligation (see *Berachot* 15a). A deaf person, even without a hearing device, who can talk would then be obligated in all such mitzvot and fulfills them although he cannot hear what he is saying, or only hears with his hearing aid. Although for a person with healthy hearing this would only be acceptable after the fact for such a *cheresh* it would be his *l'chatchila* (prime method of observance).⁵² Another argument offered is based on the rule of “*kol haroy l'bila*” (lit. ‘anything that is fit to be mixed’, see *Menachot* 103b), meaning that it should be enough that the *medaber* is in fact speaking in a sound loud enough to be audible, it is irrelevant if he himself hears it or not (see *Shaagat Aryeh* 6,7; *shu't Maharil Diskin* 181).

The consensus is that a deaf person may recite the blessing “*HaNoten L'Sechvy Bina*” (... Who gives insight to the heart/rooster”). This is true even regarding a true *cheresh*.⁵³

⁵² See *Rama* in his introduction to *Torat Chatat* where he explains that when appropriately following a *bdiaved* it becomes “*Ki Heter Gamur Aliba D'Hilchatah*”. The concept of *bdiaved* can be, and often is, easily misunderstood. It is only utilized when there is already a view that allows that certain action or inaction *lchatchila* yet, for whatever reason, this view is not seen as normative. See *Marharsham*, in *sefer Daat Torah hilchot treifot* 38 –see *Taz* 688:5; *Shach y'd* 54:9 and 242:5; *Pri Megadim seder hanhagot Orach Chaim* 1:9 and *klallim l'horaoat* #6. The *Rama* writes that it is actually a fallback to normative law and away from an accepted stringency, and writing that in such cases of need, “*Yesh Lehaamid Davar Al Dino*” –we only reverting to the basic law.

⁵³ Inferred from *Rama siman* 46:8; *Magen Avraham* *ibid.*; *Kaf Hachaim* uses the same reasoning in the name of the *Arizal*; *Shulchan Aruch HaRav*; *Mishneh Berura*, who suggests, in the name of the *Chayay Adam* that he wait until sunrise to recite this blessing).

Regarding a *kohen* who is a *medaber*, the *Mishnah Berura* (*siman* 128:49) rules that he is obligated in the priestly blessing even though he cannot hear the *chazzan*'s call.

Both a *medaber* and a *shomea* are counted for a *minyan* according to all views (*Shulchan Aruch siman* 55:8). Regarding a *minyan* made up solely of such individuals, or even when they make up four or more of the ten, they must be informed or aware as to when to answer *amen* (*Pri Chodosh* ad loc. 8; *Shulchan Aruch HaRav* 11; Cf. *Taz siman* 124:2; *Sukka* 58b).⁵⁴ Again, according to both the Chazon Ish and the Rabbi Frank (and

⁵⁴The *Gemara* here famously relates that in that a certain large *shul* in Alexandria many could not hear the *chazzan* (the one who is leading services) and could only know when to respond by having someone standing up and waving a cue. See *Shulchan Aruch* 55:8 with *Mishne Berrurah* (38) and *SA Harav* (11) how to relate this to deafness; Cf. *Taz siman* 124:2. See also *Halichot Shlomo* vol. 1, page 265 and footnote 26. See however *shut Maharil siman* 106 and 150 who seems to argue that even if a *medaber* is **not** waved so as to answer *amen* he should still be counted for a *minyan* based on *Sanhedrin* 39a, “Gd resides amongst ten”, regardless if they respond to the *chazzan*. In fact this *teshuva* was the source for the *Shulchan Aruch*'s ruling to allow a *medaber* to be counted in a *minyan*! See *Aruch HaShulchan siman* 55:12 who writes “And one should not ask regarding one who cannot hear what the *chazzan* is saying or (regarding) one who cannot speak ‘How can they be included to say *kaddish* and *kedusha*’, for this is not a question...for what is needed is ten for the Divine presence to settle there, even if not all of them can answer”. It would seem from his next paragraph (13) that we would nevertheless limit the number of *medabrim* who won't know when to answer to no more than four out of the ten; the *Shulchan Aruch HaRav* states this explicitly (55:11). There is support for this lenient approach in the *Shulchan Aruch* itself. In *siman* 55:6 he rules that one can include in a *Minyan* one who is praying his silent *amida* and even one who is sleeping, yet in *siman* 124 he rules that if there are not ten answering *amen* to the *chazzan*'s repetition that it is “a quasi blessing in vain”. To explain this apparent discrepancy some explain (*Derisha* 124:1) that even in the latter ruling he only wrote that it is a “quasi blessing in vain” meaning that *bshat hadchak* it would be allowed and it was only in such *shas hadchak* cases that he was referring to in *siman* 55. Others, however, explain (*Shulchan Aruch HaRav*) that there is no discrepancy for while the *Shulchan Aruch* allows one who is sleeping to be counted for a *Minyan* this is only for *kaddish* or *kedusha* whereas by the *chazzan*'s repetition, where blessings are being made, he rules that an answerable *Minyan* is required. According to this last opinion the *medabrim* would have to be told when to answer during the *amida*'s repetition. It would seem however that the view of the *Maharil* can be further supported by this ruling of the *Shulchan Aruch* (55:8) who rules that a *shomea* is counted for a *minyan*. Being that a *shomea*, by very definition, can't answer *amen* (!) this ruling lends strong support to the notion that what is needed is ten men, even if they are not responding.

perhaps Rabbi Feinstein) there would be no restrictions should they be equipped with a hearing device, even if they make up the entire *minyan*. According to the view of Rabbi Shlomo Zalman Aurbach that even a classic *cheresh* who was taught some form of communication and can move his mouth so as to be understood by others has the status of a *pikeach*, then such an individual would count for a *minyan* as well.⁵⁵ It should be pointed out that even according to Rav Shlomo Zalman's more stringent view regarding hearing aids (that one does not fulfill *mitzvot shmia* through them) an individual equipped may use it to know when to answer *amen*.⁵⁶

The general consensus, and the general custom, is to allow a *medaber* to be called up to the Torah for an *aliya* (Torah blessings).⁵⁷ Rabbi Feinstein allows even a true *cheresh* to receive an *aliya* for his bar mitzvah or *aufrof*—so that he should not feel downgraded—and writes that in such a case the *cheresh* should try to say the words as best he can, although such an *aliya* may not be from the main seven *aliyot*.

A *medaber* acting as the leader for prayer services (*chazan*) is subject to debate.⁵⁸ Therefore regarding saying *kaddish*, while a *medaber* may certainly say it along with others, saying it alone, however, would be subject to the above dispute. However, according to both the Chazon Ish and Rabbi Frank (and perhaps Rabbi Feinstein) this

⁵⁵ See also *Halichos Shlomo* vol., 22:26.

⁵⁶ See *ibid.* 22:16

⁵⁷ *Igros Moshe y'd* 4:41:6; *Shu't Teshuvos V'Hanhogos* 1:155; *Siddur Beis Yaakov*; *Pri Megadim, siman* 139 *M.Z.* 2; Cf. *Minchas Shlomo* 1:34, although being that the latter's concern was about understanding his words, even he would agree that in cases where this is not a fear that there is no concern.

⁵⁸ See *Biur Halacha siman* 55 s.v. '*cheresh*'.

dispute would not apply to one with a working hearing aid or CI who can, without equivocation, lead a congregation during prayers and *kaddish*.

As for a *medaber* acting as the actual reader of the Torah, this should be avoided yet can be done in cases of need, such as the bar mitzvah of a *medaber*.⁵⁹ Certainly regarding biblical readings (e.g. *parshat Zachor*) we should not rely on these lenient views. In addition, and as we will point out below, there is a distinction between the reading of the Torah and the reading of *Megillat Esther*, the latter being more stringent regarding a *medaber*.

With respect to fulfilling the mitzvah of hearing the Torah being read, Rabbi Moshe Shternbach suggests that even according to the views that rule that microphones/hearing devices are not considered true *shmia*, the mitzvah of *kriat haTorah* (reading from the Torah) would be different.⁶⁰ This is because this mitzvah may not be an obligation to hear a person read the Torah rather simply to hear ‘words of Torah’.⁶¹

⁵⁹ *Teshuvos VeHanhagos*, 1:150.

⁶⁰ *Ibid.* 1:150; 3:79.

⁶¹ See also *Shulchan Aruch HaRav, Hilchos Talmud Torah* #2 where Rabbi Liadi posits that one does not even have to understand *Torah Sh'bKsav* to warrant reward; see *Gevuras Yitzchak* by Rabbi Yitzchak Sorotzkin where he draws a distinction between *krias haTorah* where one fulfills a *mitzvah* even if they do not understand it and *mitzyvos Hakhel* where there is an obligation to hear and understand (*Chagiga* 3a) based on the verse (Devarim 31:12) “...so that they will hear and so that they will learn” and which therefore exclude a *medaber*. This idea of *kriat haTorah* view being about hearing words of Torah and necessarily the reading itself is strengthened by the view that *Moshe Rabbeinu's takana* for thrice weekly *Torah* readings is not an obligation on each individual, rather on the *tzibbur*, which would mean that the *halachik* rules of *shomea k'oneh* are not activated during its readings. For this reason some argue that even hearing *krias haTorah* through a microphone would not be a concern either, see *Piskei Teshuvos* 135 and *shu't Teshuvos V'Hanhagos* 1:55. According to the several responsa of the *Tzitz Eliezer* sourced in the last section we he decries the usage of microphones in a synagogue due to his view that it transgresses the reverence demanded of us there, these arguments due little to assuage his feelings.

A *medaber* and a *shomea*⁶² are counted toward a *zimun* – groups for grace after meals (Rema *siman* 199:10)⁶³ of both three and ten. According to some (see *Shulchan Aruch Harav*) they should not (especially a *shomea*) be counted as one of a *zimun* of three, and even in a *zimun* of ten there should be no more than four *medabrim*.⁶⁴ As for leading the *zimun*, see *Biur Halacha siman* 199 s.v. “*meztarfin*” who relates this question to the issue of a *medaber* acting as the *chazan*. He ends by suggesting that it might be possible to be more lenient concerning his leading a *zimun*. Here too, the Chazon Ish and Rabbi Frank would view one equipped with a hearing device like anyone else.

Kriat HaMegilla – A *medaber* who can hear through the help of a hearing aid, according to the view of Rav Shlomo Zalman Auerbach (1:9), may have no way of fulfilling the mitzvah of reading the *megilla* and is therefore exempt from it (*ones rachmana patrei* – Gd does not hold us culpable for impossible actions).⁶⁵ As stated in a previous section, Rabbi Auerbach does imply that they should still listen to the reading while making sure not to say the blessings.

Shulchan Aruch siman 689:2 with *Mishnah Berura* (5), regarding one who is completely deaf (*Shaarei Teshuva*) yet can speak, rules that he cannot even read the *megilla* for himself. Even though we mentioned above that regarding blessings and prayer that require one to hear the words that they uttering, a *medaber* nevertheless fulfills his obligation, *kriat ha'megilla* they argue is different. This is due to the special concept of *pirsumei nissa* –the public showing of the miracle we are coming to

⁶² See *Mishnah Berura* *ibid*.

⁶³ Although the Rema utilizes the term “*cheresh*”, the *Mishnah Berura* (28) explains that he was only referring to a *medaber*.

⁶⁴ Based on the points raised in footnote 61.

⁶⁵ See *Avnei Nezer Orach Chaim* 439 and *Kovetz HaOros* 48:14 if an *onness* can still be viewed as *bar-chayuva* in order to be *motzi* others. See *Chavtzalus HaShurin, Shmos*, page 93-95; *Shalmei Toda, Purim* page 164.

commemorate that is activated on Purim and that obligates the reader to hear the words that he is saying (*Beit Yoseph*). Many *achronim* (post 16th century scholars) disagree with this ruling of the *Shulchan Aruch* (Gra, Shaagat Aryeh, *et al.*) and allow for a *medaber* (with no hearing aid) to read the *megilla*, even for others.⁶⁶

The *Meiri* (*Megilla* 19b) explicitly compares *megilla* to the case of being a *chazzan* and rules that for *megilla* too a *medaber* can read for others and exempt them. The *Shaarei Teshuva* (ad loc. 2) posits that when dealing with one who could hear through a hearing device, even the *Shulchan Aruch* would agree that he could read the *megilla* (cf. *shu't Tzemech Tzedek Even HaEzer* 323). This last point, however, is difficult to rely upon due to the fact that the *Shaarei Teshuva* was speaking of non-electrical, primitive hearing aids of bygone years, which as pointed out by Rabbi Moshe Feinstein (*Even HaEzer* 3:33) must be viewed more leniently than modern ones. The Chazon Ish and Rabbi Frank would, again, see one equipped with a modern hearing device like anyone else even regarding *kriat hamegilla*.

Shabbat- Due to all that has been discussed thus far, a *cheresh-medaber* should make *kiddush* and *havdala* for himself and should not exempt others. It would seem, however, that a father of a household may be lenient in this matter and lead *kiddush* etc. for his wife and children. This is due to the many lenient approaches we have seen regarding modern day hearing devices, and, based on the many opinions mentioned in the *Biur Halacha* (*siman* 55) that allow a *cheresh* who can speak (even without a hearing device) to fulfill mitzvot on behalf of others. While we would not typically rely on these views, in cases of need we would, and a father being seen as the head of the household is crucial for children, especially in our day.⁶⁷

⁶⁶ Although even these views do not recommend that he be *motzi* others.

⁶⁸ Rav Levi Yizchak Halperin of the Institute of Science and Halacha, in a statement issued in 1996 and quoted in *Toras Hacheresh* footnote #5, posits that cochlear implants are no different than hearing aids as they relate to *Shabbos*.

Hearing Aids on Shabbat -A week after Rabbi Feinstein received a query (*Iggerot Moshe Orach Chaim* 4:84) regarding the use of microphones on Shabbat –which he forbids for four separate reasons –he received a query (ad loc. 85) relating to hearing aids on Shabbat. He ruled that albeit a hearing aid is indeed a mini-microphone and he had recently ruled that microphones are forbidden to be used on Shabbat, one can still wear a hearing aid on Shabbat. He goes on to demonstrate how all four of his reasons forbidding a microphone on Shabbat would not apply to hearing aids.⁶⁸

While Rabbi Feinstein suggests that it is better for others not to speak directly to the wearer on Shabbat unless it is urgent,⁶⁹ according to Rabbi Shlomo Zalman Auerbach (*Minchat Shlomo* 1:9), talking directly to the wearer is of no concern. As for raising or lowering the volume of hearing aids on Shabbat, there are a number of views. Some, like Rav Shlomo Zalman Auerbach (*Minchat Shlomo* 1:9 *anaf beit* 1; *Shimerat Shabbat K'hilchata* 34:28; *shu't Beur Moshe* 1:17) felt that adjusting the volume on electrical devices –so long as no new current is being created, rather an existing one is being raised or lowered –is allowed. One's personal *rav* should be consulted before acting on this issue.

The reader is directed to Rabbi Elysha Sandler's excellent article in *Journal of Halacha & Contemporary Society*, XLI; Spring 2001 - Pesach 5761, "The Use of Hearing Aids on Shabbat", as well as *Torat HaCheresh*, by Rabbi Shuchatowitz (NCSY, 2002) where issues that relate to Shabbat are discussed in greater detail.

⁶⁸ Rav Levi Yizchak Halperin of the Institute of Science and Halacha, in a statement issued in 1996 and quoted in *Toras Hacheresh* footnote #5, posits that cochlear implants are no different than hearing aids as they relate to *Shabbos*.

⁶⁹ Op cit. See also *Orchot Rabbeinu* (Kinievisky) vol. 1 p. 146 where it is written that the Steipler Gaon would not speak directly to one equipped with a hearing device on Shabbat, he would however speak to a group of people even if it was known that one of the people there was using a hearing device.

Sign Language

There is significant debate as to the status of a deaf person who cannot be assisted with hearing aids and who never learned how to talk, yet has the ability to converse in sign language. A competent *rav* should be consulted.⁷⁰

Rabbi Feinstein (in a *teshuva* first published in the back of the first volume of Rabbi Eider's English work on the laws of *nidda*),⁷¹ rules that one who was born deaf and also cannot speak yet *can* converse in sign language still has the status of true *cheresh*.⁷² He draws a comparison to writing, which, as stated above, is not a skill that transforms a born *cheresh* into a *medaber*.⁷³ Nevertheless, he rules in a later responsum that if a *cheresh* is unable to recite any words, it is better he *daven* in sign language than not to *daven* at all.⁷⁴ This last point is consistent with his view stated above that even a true

⁷⁰ Rav Yechiel Yaakov Weinberg, *Kitvei R. Weinberg*, 1:1, seems reluctant to rely on any scientific standards in assessing *pikchus*. See also *shu't Tzemech Tzedek 77* and *Nishmat Avraham* (Artscroll) Volume 1, page 27. However, a logical proof can be brought from *chazal* that would seem to indicate against both viewing sign language as a language (or talking) and against judging a true *cheresh* pragmatically: The *mishneh* (*Yevamus* 112a) rules that a *cheresh* may marry through *remizah*, which Rashi explains as hand motions. The *gemera* 112b explains that although biblically they are *patur* from all *mitzvos* and that in reality such a *kinyan* should be of no value, for the benefit of society it is allowed. This would mean, it would seem, that generally sign language is insignificant, and one's ability to 'understand' is not judged on a case-by-case basis, otherwise we would not need this special *takana* for marital matters.

⁷¹ 'Halachos of Nidda', Page 25.

⁷² The question was in regard to the *nidda* inspections of a *chereshah* and if she is trusted to do it herself. On page 71 of the English section Rabbi Eider writes, quoting, in the footnote, Rabbi Feinstein as his source, "There is a view that holds that a deaf-mute, although she is capable of communicating intelligently, may not perform her own examinations". He could only be referring to sign language as indicated by his question posed to Rabbi Feinstein printed in the back of this volume.

⁷³ Amazingly, in a later *teshuva* (*y'd* 4:49:5) to his grandson, Rabbi Feinstein allows such a *chereshah* to do her own examinations so long as her husband trusts her, suggesting a pragmatic approach even to true *cherashim*.

⁷⁴ (Klein) *k* would question See *Shevet Sefer eh'e* 21 s.v. "vroesy" where he begins to say that sign language does not change the status of a *cheresh* but ends in doubt. He writes that his father too was not sure how to view them. He therefore suggests that they should be stringent in *mitzvos*. See also *shu't Beis Shlomo oh'c* 95; *Divrei Malkiel* 6:35, both as brought in *sefer Hilchos Gerim* page 117 footnote 44, where, based on these sources, the author rules that such

cheresh who is exempt from all mitzvot should still not abandon Torah. Others disagree and rule that a *cheresh* who has the ability to converse in sign language has the status of a *pikeach* (fully understanding person).⁷⁵

As for using sign language during *davening* at times when talking would not be allowed, a logical distinction must be made between the arbitrary motions people may make at times in order to communicate specific things (i.e. for silence, or for a pen) and an official, agreed upon, language of signs and gestures. The *Shulchan Aruch* rules (*siman* 63:6) that one is not allowed even to motion during the first chapter of *kriat shma*. The *Mishnah Berura* (*siman* 104:1) rules the same for the *amida*.⁷⁶ Regarding *birchat hamazon* (grace after meals), the *Shulchan Aruch* rules (*siman* 183:8) that some say all the laws regarding prayer apply as well to *birchat hamazon*, which the *Aruch Hashulchan* explains would mean that one cannot communicate through motion, just as during any prayer. These laws would all the more so apply to sign language. Regarding other points in *davening* where talking is not allowed, or is frowned upon, sign language, while certainly not viewed as talking,⁷⁷ and certainly such communicating does not disturb others when compared to talking, would nevertheless seem to go against the reverence we are to have toward prayer and the synagogue (see *Shulchan Aruch siman* 150; *Zohar*,

cherashim may be accepted as *geirim*. It is unclear if according to these views, as cited, one can *lechatchila* make a *beracha* or pray using sign language; or be *motzi* another (who also understands it) through such communicative gestures. One is always advised to look up all such *teshuvos* brought down in *liklutim*; regarding what is found in this article as well, nothing should be relied upon until one goes through the material for themselves to see if this writer faithfully explained them.

⁷⁵ (Klein) would question See *Shevet Sefer eh'e* 21 s.v. "vroesy" where he begins to say that sign language does not change the status of a *cheresh* but ends in doubt. His writes that his father too was not sure how to view them. He therefore suggests that they should be stringent in *mitzvos*. See also *shu't Beis Shlomo oh'c* 95; *Divrei Malkiel* 6:35, both as brought in *sefer Hilchos Gerim* page 117 footnote 44, where, based on these sources, the author rules that such *cherashim* may be accepted as *geirim*. It is unclear if according to these views, as cited, one can *lechatchila* make a *beracha* or pray using sign language; or be *motzi* another (who also understands it) through such communicative gestures. One is always advised to look up all such *teshuvos* brought down in *liklutim*; regarding what is found in this article as well, nothing should be relied upon until one goes through the material for themselves to see if this writer faithfully explained them.

⁷⁶ See also *Ben Ish Chay*, *Chukas* #8 and the *Chida* as brought in the *Shaarei Teshuva* ad loc.

⁷⁷ E.g. see the *Birkei Yosef* (*siman* 104:2) who rules that although one cannot motion during *shemoneh esreh*, if children are disturbing one's *davening* it is better to motion than to silence them verbally; see also *shu't Be'er Moshe* 3:13.

parshat Teruma) and will certainly weaken the atmosphere in shul and may even cause the other worshippers witnessing such open communication to view actual talking lightly.

Conclusion: As can be seen by this brief monograph, the laws of a *cheresh*, *medaber*, *shomea* and all the cases in between, touch upon virtually every aspect of Jewish life. Precisely because of developments in the field of deaf education and the advancement of the deaf and hard-of-hearing in daily life, *poskim* devote much time to clarifying their status.

Everyone in *klal yisroel* has their important role to play as well as their deficiencies. Let us all come to terms with our own and use them too to benefit others. May we soon merit the promise of *Yishayahu* (35:5-6): "*The eyes of the blind shall be clear-sighted, and the ears of the deaf shall be opened...the lame shall leap as the hart, and the tongue of the mute shall sing*"

This article is dedicated to the bachurim and rebbeim of Yeshivas Nefesh Dovid – a yeshiva for the deaf and hard-of-hearing.